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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91221338
Party	Plaintiff PRL USA Holdings, Inc.
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Submission	Motion to Consolidate
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Date	06/11/2015
Attachments	91207805JointMotConsolidate.pdf(125669 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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PRL USA HOLDINGS, INC.,

Opposer,

-against- Opposition No. 91207805

POLO GEAR INTELLECTUAL PROPERTIES, INC.
and POLOGEAR LLC,

Applicant.
----------x

AND

----------x
PRL USA HOLDINGS, INC.,

Opposer,

-against- Opposition No. 91221338

POLO GEAR LLC,

Applicant.
----------x

CONSENT MOTION TO CONSOLIDATE

Pursuant to Federal Rule of Civil Procedure 42(a), Opposer and Applicant in the above-captioned proceedings (collectively, the "Parties"), hereby move the Board to consolidate Opposition Proceeding No. 91207805 (the "'805 Opposition") and Opposition Proceeding No. 91221338 (the "'338 Opposition") (collectively, the "Proceedings"). The Parties agree that judicial economy would best be served by consolidation of the Proceedings, which involve the same Parties and the same questions of fact and law.

Fed. R. Civ. P. 42(a), made applicable by Trademark Rule 2.116(a), provides that the Board may "(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate

the actions; or (3) issue any other orders to avoid unnecessary cost or delay" when presented with multiple actions involving common questions or fact and/or law. Fed. R. Civ. P. 42(a); *see also M.C.I. Foods Inc. v. Bunte,* 86 U.S.P.Q.2d 1044, 1046 (T.T.A.B. 2008); *S. Indus. Inc. v. Lamb-Weston Inc.*, 45 U.S.P.Q.2d 1293, 1297 (T.T.A.B. 1997). When deciding whether consolidation is appropriate, the Board considers and weighs the potential savings of time, effort, and expense that could be gained as a result of consolidation, against the potential prejudice and/or inconvenience that could be caused by the consolidation. *See, e.g., Dating DNA LLC v. Imagini Holdings Ltd.,* 94 U.S.P.Q.2d 1889, 1893 (T.T.A.B. 2010); *World Hockey Ass'n v. Tudor Metal Prods. Corp.*, 185 U.S.P.Q. 246, 248 (T.T.A.B. 1975). The Board also takes into consideration the identities of the parties involved in the relevant proceedings. *See, e.g., Societe Des Produits Marnier Lapostolle v. Distillerie Moccia S.R.L.*, 10 U.S.P.Q.2d 1241, 1242 (T.T.A.B. 1989); *Bigfoot 4x4 Inc. v. Bear Foot Inc.*, 5 U.S.P.Q.2d 1444, 1445 (T.T.A.B. 1987).

All of the aforementioned factors favor consolidation here. The Parties to the two Proceedings are identical. The opposed applications all are for marks that contain the words POLO GEAR and two of the marks contain the same design of a mounted polo player depicted as follows:

The opposed applications all cover either wearing apparel, accessories, bedding, or other home textiles in Classes 18, 24, and/or 25. In both Proceedings, the bases for opposition are priority and likelihood of confusion and dilution. The '805 Opposition and the '338 Opposition therefore both raise common questions of fact and law. These Proceedings involve the same or very similar sets of facts, documents, and witnesses. The Parties have already served discovery

requests that cover both the '805 Opposition and the '338 Opposition. As such, it would be most efficient to consolidate the two Proceedings, now that Applicant has filed its Answer in the more recent '338 Opposition.

In light of the foregoing, the Parties respectfully request that the Board grant their joint motion to consolidate the '805 Opposition and the '338 Opposition.

Dated: June 11, 2015 By: /Daniel I. Schloss/

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Dated: June 11, 2015 By: /daniel j. barsky/

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2015 a copy of the foregoing Consent Motion to Consolidate was served upon Applicant by delivering same to Applicant's Counsel of record via first class mail, at the following address:

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/Daniel I. Schloss/
Daniel I. Schloss